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FILED

SEP 24 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) No. CR 3-13-70799 JSC
14 Plaintiff,) [PROPOSED] ORDER AND STIPULATION
15 v.) EXCLUDING TIME FROM THE SPEEDY TRIAL
16 JOHNNY PEREIRA-VIGIL,) ACT CALCULATION (18 U.S.C. § 3161(h)(7)(A),
17 Defendant.) AND WAIVING TIME LIMITS UNDER RULE 5.1
18)

19 With the agreement of the parties, and with the consent of the defendant, the Court enters this
20 order scheduling an arraignment or preliminary hearing date of September 27, 2013 at 9:30 a.m. before
21 the duty Magistrate Judge and documenting both the defendant's waiver of the preliminary hearing date
22 under Federal rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18
23 U.S.C. § 3161(b), from September 18, 2013 to October 25, 2013. The parties agree, and the Court finds
24 and holds, as follows:

25 1. The defendant is currently in custody.

26 2. The defendant appeared in custody before the Court, with counsel, on September 18,
27 2013 and agreed to waive time under the Speedy Trial Act and under Rule 5.1 from September 18, 2013

1 through September 27, 2013.

2 3. This matter is currently set for arraignment or preliminary hearing before the duty
3 Magistrate Judge on September 27, 2013.

4 4. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C.
5 § 3161(h)(7)(B)(iv) to provide the reasonable time necessary for effective preparation, taking into
6 account the exercise of due diligence. The defendant previously agreed to such an exclusion of time
7 under the Speedy Trial Act from September 18, 2013 through and including September 27, 2013, and
8 now agrees to such an exclusion of time under the Speedy Trial Act for the period from September 27,
9 2013 through October 25, 2013. As the parties have discussed, the government is in the process of
10 producing more than one thousand pages of discovery, and defense counsel will need time to review it
11 and to evaluate with his client the best way to proceed with the case.

12 5. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for
13 preliminary hearing.

14 6. Counsel for the defense believes that postponing the preliminary hearing is in his client's
15 best interest, and that it is not in his client's interest for the United States to indict the case during the
16 normal 14-day timeline established in Rule 5.1.

17 7. The Court finds that, taking into account the public interest in the prompt disposition of
18 criminal cases, these grounds are good cause for extending the time limits for a preliminary hearing
19 under Federal Rule of Criminal Procedure 5.1. Given these circumstances, the Court finds that the ends
20 of justice served by excluding the period from September 18, 2013 to October 25, 2013 outweigh the
21 best interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

22 8. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary
23 hearing date before the duty Magistrate Judge on October 25, 2013 at 9:30 a.m., and (2) orders that the
24 period from September 18, 2013 through and including October 25, 2013 be excluded from the period
25 for preliminary hearings under Federal Rule of Criminal Procedure 5.1, and be excluded from the

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27 //

1 otherwise applicable Speedy Trial Act calculation under 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

2 IT IS SO STIPULATED.

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4 DATED: 9/23/2013

/S/
ANTHONY LOWENSTEIN
COUNSEL FOR THE DEFENDANT

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6 DATED: 9/23/2013

/S/
ANDREW M. SCOBLE
ASSISTANT U.S. ATTORNEY

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8
9 IT IS SO ORDERED.

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11 DATED: 9/24/2013


NATHANAEL COUSINS
United States Magistrate Judge